

REMARKS

The Examiner has objected to independent claim 81 because of an informality. Applicants have amended claim 81 in accordance with the Examiner's suggestion and, therefore, request reconsideration and withdrawal of the objection.

The Examiner has rejected independent claims 66 and 81 as being anticipated by Gourd. Applicants have amended each of these claims to recite that the generally rigid member defines a passage along an entire length of the generally rigid member. Applicants submit that there is no description or suggestion in Gourd that the shank component 6, which the Examiner equates to the claimed rigid member, defines a passage along its entire length. Rather, as shown in Fig. 2, shank component 6 defines a passage along only a portion of its length.

Therefore, for at least this reason, claims 66 and 81 are patentable over Gourd.

The Examiner has rejected independent claims 55, 66, and 81 as being anticipated by Bowald. As amended, each of claims 55, 66 and 81 recites a shaft or a region of a shaft having longitudinal extensibility. Applicants submit that there is no description or suggestion that Bowald's prosthetic element includes such a shaft. As was previously discussed in the responses filed on May 20, 2002 and on March 21, 2003 in the parent application (Serial Number 09/490,525), Bowald describes, at col. 5, lines 47-55, a prosthetic element having "an inner structure in the form of a plurality of threads 2 ... which have been twined to form a multi-filament strand of a desired thickness and been provided with ... [a] net-shaped outer covering or coating 3." Bowald's inner structure, being a plurality of threads that have been twined to form a multi-filament strand, would limit any possible longitudinal extensibility of the prosthetic element.

Therefore, for at least this reason, claims 55, 66 and 81 are patentable over Bowald.

The Examiner has also rejected claim 55 over Gourd in view of Lewis. Applicants have amended claim 55 to recite that substantially an entire length of the shaft extending from the member to the head is formed of a woven mesh that provides transverse flexibility and longitudinal extensibility to render the head movable with respect to the shaft. Claim 55 further recites that the head has a maximum longitudinal cross-sectional length along the maximum

longitudinal axis of the fastener that is shorter than the maximum transverse cross-sectional length of the head. Neither Gourd nor Lewis describes or suggests the claimed shaft and head.

The Examiner equates Gourd's linking means 10, which is flexible and extends from head component 4 to shank component 6, with the claimed shaft. The Examiner appears to equate head component 4 to the claimed head. The head component 4, however, does not have a maximum longitudinal cross-sectional length along the maximum longitudinal axis of Gourd's fastener that is shorter than its maximum transverse cross-sectional length. Rather, as shown in Fig. 1, the maximum longitudinal cross-sectional length of the head component 4 is greater than its maximum transverse cross-sectional length. Moreover, if the Examiner were to equate circular lip portion 8 of the head component 4 with the claimed head, then Gourd's fastener would fail to meet the limitations regarding the structure of the shaft due to the rigidity of the lower portion 14 of the head component 4. Lewis, which is relied upon solely to disclose a region of a shaft being formed of a woven mesh, also fails to describe or suggest these features.

For at least these reasons, claim 55 is patentable over Gourd and Lewis.

Applicants do not acquiesce in the Examiner's characterizations of the art. For brevity and to advance prosecution, however, applicants may have not addressed all characterizations of the art and reserve the right to do so in further prosecution of this or a subsequent application. The absence of an explicit response by applicants to any of the examiner's positions does not constitute a concession of the examiner's positions. The fact that applicant's comments have focused on particular arguments does not constitute a concession that there are not other arguments for patentability of the claims. All of the dependent claims are patentable for at least the reasons given with respect to the claims on which they depend.

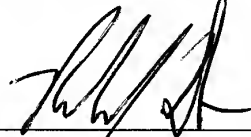
Applicant : Rod Berube et al.
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The fee in the amount of \$120 is being paid concurrently herewith on the Electronic Filing System (EFS) by way of Deposit Account authorization. Please apply any other charges or credits to Deposit Account No. 06-1050.

Respectfully submitted,

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Roberto J. Devoto
Reg. No. 53,108

Fish & Richardson P.C.
1425 K Street, N.W.
11th Floor
Washington, DC 20005-3500
Telephone: (202) 783-5070
Facsimile: (202) 783-2331